Nevada Division of Environmental Protection

FACT SHEET (pursuant to NAC 445A.236)

Permit Name: General Permit for Stormwater Discharges Associated with Construction Activity

Permit Number: NVR100000. (This permit replaces expired general permit GNV0022241)

Location: Currently, there are approximately 1000 separate construction projects permitted statewide

Background:

Since the passage of the Clean Water Act (CWA), the quality of our Nation's waters has improved dramatically. Despite this progress, however, degraded water bodies still exist. According to the 1996 National Water Quality Inventory (Inventory), a biennial summary of State surveys of water quality, approximately 40 percent of surveyed U.S. water bodies are still impaired by pollution and do not meet water quality standards. A leading source of this impairment is polluted runoff. In fact, according to the Inventory, 13 percent of impaired rivers, 21 percent of impaired lake acres and 45 percent of impaired estuaries are affected by urban/suburban storm water runoff and 6 percent of impaired rivers, 11 percent of impaired lake acres and 11 percent of impaired estuaries are affected by construction site discharges. Phase I of the U.S. Environmental Protection Agency's (EPA) storm water program was promulgated in 1990 under the CWA. Phase I relies on National Pollutant Discharge Elimination System (NPDES) permit coverage to address storm water runoff from:
(1) "Medium" and "large" municipal separate storm sewer systems (MS4s) generally serving populations of 100,000 or greater,
(2) Construction activity disturbing 5 acres of land or greater, and
(3) Ten categories of industrial activity.

The Storm Water Phase II Final Rule is the next step in EPA's effort to preserve, protect, and improve the Nation's water resources from polluted storm water runoff. The Phase II program expands the Phase I program by requiring additional operators of MS4s in urbanized areas and operators of small construction sites, through the use of NPDES permits, to implement programs and practices to control polluted storm water runoff.

Specifically, the Phase II final rule "automatically" covers two classes of stormwater dischargers on a nationwide basis:

(1) Operators of small MS4s located in "urbanized areas" as delineated by the Bureau of the Census. A "small" MS4 is any MS4 not already covered by Phase I of the NPDES storm water program.

(2) Operators of small construction activities that disturb equal to or greater than 1 (one) and less than 5 (five) acres of land and any other construction activity with the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

Phase II is intended to further reduce adverse impacts to water quality and aquatic habitat by instituting the use of controls on the unregulated sources of storm water discharges that have the greatest likelihood of causing continued environmental degradation. The environmental problems associated with discharges from MS4s in urbanized areas and discharges resulting from construction activity are outlined below.

Rainfall Erosivity Waiver

Because construction site storm water runoff can contribute significantly to water quality problems, the Phase I Storm Water Rule imposed a requirement that all construction sites with a planned land disturbance of 5 acres or

more obtain an NPDES permit and implement storm water runoff control plans. Phase II extends the requirements of the storm water program to sites of between 1 and 5 acres. The Rainfall erosivity waiver, along with the water quality waiver, allows permitting authorities to waive those sites that do not have adverse water quality impacts.

The Storm Water Phase II rule allows permitting authorities to waive NPDES requirements for small construction sites if the value of the rainfall erosivity factor is less than 5 during the period of construction activity (see § 122.26(b)(15)(i)(A)). Note that the permitting authority has the option to not allow waivers for small construction activity. Nevada will use the rainfall erosivity waiver however it will not become effective until permits are required from small construction activity.

MS4s in Urbanized Areas

Storm water discharges from MS4s in urbanized areas are a concern because of the high concentration of pollutants found in these discharges. Concentrated development in urbanized areas substantially increases impervious surfaces, such as city streets, driveways, parking lots, and sidewalks, on which pollutants from concentrated human activities settle and remain until a storm event washes them into nearby storm drains. Common pollutants include pesticides, fertilizers, oils, salt, litter and other debris, and sediment. Another concern is the possible illicit connections of sanitary sewers, which can result in fecal coliform bacteria entering the storm sewer system. Storm water runoff picks up and transports these and other harmful pollutants then discharges them – untreated – to waterways via storm sewer systems. When left uncontrolled, these discharges can result in fish kills, the destruction of spawning and wildlife habitats, a loss in aesthetic value, and contamination of drinking water supplies and recreational waterways that can threaten public health.

Construction Activity

Uncontrolled runoff from construction sites is a water quality concern because of the devastating effects that sedimentation can have on local water bodies, particularly small streams. Numerous studies have shown that the amount of sediment transported by storm water runoff from construction sites with no controls is significantly greater than from sites with controls. In addition to sediment, construction activities yield pollutants such as pesticides, petroleum products, construction chemicals, solvents, asphalts, and acids that can contaminate storm water runoff. During storms, construction sites may be the source of sediment-laden runoff, which can overwhelm a small stream channel's capacity, resulting in streambed scour, stream bank erosion, and destruction of nearstream vegetative cover. Where left uncontrolled, sediment laden runoff has been shown to result in the loss of in-stream habitats for fish and other aquatic species, an increased difficulty in filtering drinking water, the loss of drinking water reservoir storage capacity, and negative impacts on the navigational capacity of waterways.

Dust Control and Surfactants

On behalf of the Nevada Division of Environmental Protection (NDEP), the attached document, Interim Guidelines on Dust Palliative Use in Clark County, is being provided in an effort to help members of the public and industry understand and correctly choose and apply dust palliative products in a manner that is appropriate for their particular site and traffic conditions.

The guidelines contained within this document are based largely on recommendations from the Dust Palliative Working Group and were established in response to direction from the Legislature and SB432. The underlying intention is to provide all parties who will be using dust palliatives with a basic knowledge of best management practices and procedures that can be used to effectively reduce dust emissions in a manner that may help minimize other potential adverse environmental impacts.

Regardless of where dust palliatives and/or surfactants are used, it should be noted that their use is subject to the more stringent of state or local requirements.

Operator / Owner

An operator of a construction site is the person (or persons) responsible for obtaining coverage under an NPDES storm water permit for construction activity, and complying with the permit requirements. An operator is the person or persons that meet either of the following criteria:

- Has operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or

- Has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan (SWPPP) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

There may be more than one party at a site responsible for "operational control." Depending on the project and the distinction between the parties' (e.g., owner's vs. developer's) responsibilities, there can either be a single party acting as a site operator needing permit coverage or there can be two (or more) operators who may share permit responsibilities. In cases where there are two or more operators, both parties will need permit coverage if they choose to keep the responsibilities as described in the above bullets separate, or they choose to separately maintain operational control for different portions of the site, etc. In such cases, both operators should obtain permit coverage as co-permittees by co-submitting separate Notice of Intent forms, and should share in meeting permit conditions (e.g., generating the storm water pollution prevention plan, performing inspections, etc.). The option to have one sole operator who is willing to assume complete responsibility / liability for all permit requirements still exists and, in many cases, may be the less overall burdensome way to comply with storm water requirements. There are other instances where parties conduct earth-disturbing activities at a site but do not need their own permit coverage. Examples for whom this may apply include a subcontractor who is under the supervision of the operator, or an entity that is neither a subcontractor nor has operational control (e.g., a utility line installer).

Receiving Water Characteristics:

Variable depending on location

Permit Requirements:

This permit is in response to requirements of the Federal Clean Water Act and implementing federal regulations, and is based on Best Management Practices (BMPs) such as diversion, detention, erosion control, sediment traps, gravel construction entrances, covered storage, spill response, and good housekeeping. The site operator selects the BMPs subject to Division approval. This is a continuation of a program begun in 1993 under the previous general permit, GNV0022241. Like the previous permit, this permit is applicable to projects involving disturbance of five or more acres. In addition, starting March 10, 2003, the permit is also required for projects disturbing from one (1) to five (5) acres and any other construction activity with the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

Rationale for Permit Requirements:

The conditions set in permit language are the minimum requirements to maintain and implement an effective stormwater program within the confines of U. S. EPA published rules (Title 40 of the Code of Federal Regulations Part 122) for use in stormwater permits

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